






THE COURT REPORT

**What it is, what it's not
and how to tell the
difference**

What we'll talk about:

-  Why do we need a court report?
-  What research is necessary?
-  How is a court report drafted?
-  To whom are court reports distributed ?
-  When should court reports be distributed?

Why do we need a court report?

- ❑ Statutorily required (N.C. Gen. Stat. 7B-808)
- ❑ Court reports are one component of a comprehensive rhetorical strategy

The DSS Comprehensive Rhetorical Court Strategy



Court Report



In-Court Testimony



Exhibits



Cross Examination



Closing Argument

The Court Report as a Rhetorical Device








- ❏ Only data is neutral and objective.
- ❏ The minute data is manipulated, rhetorical decisions begin to be made which orient data along certain subjective, rhetorical poles that reflect the values and priorities of the person (agency) manipulating the data.
- ❏ Thus, your court reports reflect your value set, as a DSS employee, and constitutes one effort among many to negotiate a decision in court that similarly reflects these values.

Power

- ❑ Every party in the Court system has power.
- ❑ Power is not evenly distributed
- ❑ The re-distribution of power can be negotiated through the proper application of the facts and law.
- ❑ You must persuade in order to negotiate a re-distribution of power.

Research

What composes the raw data for a court report?

-  Eyewitness observation
-  Collateral, third party observation
-  Party admissions
-  Third party reports (FIPP, CDSA, Law Enf.)
-  Psychological evaluations, substance abuse assessments, etc.
-  Photographs
-  Newspaper stories

Components of a Persuasive Court Report






-  Past History
-  Current History
-  Statement of Reasonable Efforts
-  Recommendations

Past History

- ❏ Should *only* appear in Dispositional Court Summaries.
- ❏ Should succinctly summarize the critical facts necessary to understand why DSS filed a petition
- ❏ Should be in narrative format arranged (to the extent possible) in chronology (don't write like Kurt Vonnegut!)

Current History

Current History should be tailored to address relevant critical issues the judge is required to address:

-  Whether a parent, guardian or caretaker can presently reunite with the minor child.
-  If reunification with a parent, guardian or caretaker is not possible now, whether it might be possible within a reasonable period of time.
-  If reunification is not possible, whether other plans have been evaluated to achieve permanence.
-  The goals of the foster care placement.
-  Whether a new foster care plan is necessary


Current History


Current history issues continued:

- ❑ How the child is doing in the current placement
- ❑ What visitation plan is appropriate.
- ❑ If the juvenile is 16 or 17, what assessment of independent living has been made and/or what independent living plan has been made.
- ❑ Whether TPR should be considered (N.C. Gen. Stat. 7B-906, 7B-907)


Whether a parent, guardian or caretaker can presently reunite with the minor child.

 *Questions to answer:*

 Has a case plan been developed? If not, why not? If so, what are the plan's terms?







 What efforts has each parent made since the last review with regard to obtaining services? Refraining from prohibited behaviors? Regarding visitation?

 What barriers exist to accomplishing a plan of reunification?

 Is it reasonable to expect that each parent is capable of overcoming barriers to reunification?





If reunification is not possible,
whether other plans have been
evaluated to achieve permanence

Questions to answer:

-  What relatives exist who can provide a home for the juvenile? Have they been assessed?
-  If no relative placements exist, is the child a candidate for:
 -  Legal Custody
 -  Adoption
 -  Guardianship
 -  Another Planned Permanent Living Arrangement (14 and older, family setting, continuous placement for six months)

The goals of the foster care placement

Questions to answer:

-  What issues affect the child in the foster care setting?
-  What plans have been made to overcome barriers within foster home to the current or permanent case plan?
-  What services are being offered to the foster care setting?
-  Is the foster care plan meeting the child's needs and should a new foster care plan be undertaken?




What visitation plan is appropriate

- ❏ What visitation is allowed?
- ❏ Is there a visitation plan? If not, why not?
- ❏ Who is visiting and how often?
- ❏ How does the parent / child respond in visitation?
- ❏ Does the visitation plan need to be modified?

Note: It is absolutely imperative that the judge have a copy of the current visitation plan as the judge must approve the plan.

Independent Living

Questions to answer:

-  If the juvenile is 16 or 17, has the juvenile been assessed for independent living needs?
-  Is there an independent living plan?
If not, why not?
-  How is the juvenile complying with any existing independent living plan?

Note: The Judge must have a copy of the independent living plan.

Statement of Reasonable Efforts

- ❏ Reasonable efforts statements are necessary in order to qualify for IV-E funding.
- ❏ Reasonable efforts statements should be case specific and should establish a nexus between the effort made by the DSS and (1) meeting the needs of the juvenile; (2) preventing the need to remove the juvenile from the home; and (3) effectuating the permanent plan.
- ❏ Reasonable efforts should be evident in Court report.

Statement of Reasonable Efforts

- ❏ Affidavit of reasonable efforts should be filled out and attached to every court report.

Bad Reasonable Effort Statements:

- ❏ Provided Medicaid, visitation, transportation, etc.

Good Reasonable Effort Statements:

- ❏ Transported parent, who had no transportation, to FIPP to enable parent to visit with child and overcome diagnosed issues of bonding which are a barrier to reunification.




Attachments

- ❏ Every Court report should have attached copies of the following:
- ❏ Current visitation plan
- ❏ Current Independent Living plan
- ❏ Current psychological evaluations, psychiatric evaluations, substance abuse assessments, progress notes or updates from therapists, current criminal charges for parents, etc.
- ❏ Affidavit of reasonable efforts






Nice Things to Have

- ❏ Charts or graphs or timelines summarizing data
- ❏ Photographs (particularly of continuing chronic conditions (i.e. dirty house, injuries to child, deteriorated house structure)
- ❏ Statements from parents' employers, therapists, service providers, whether good or bad

Things to Avoid

-  Don't dump your raw dictation into a summary.
-  Don't *ever, ever, ever* reference a conversation you had with the DSS attorney!
-  Don't reference the Howard Metzenbaum Multi-ethnic Placement Act or the Indian Child Welfare Act unless there has been a bona fide determination of applicability and actions were taken in accordance with the Act(s).

To whom are court reports distributed ?

-  Attorney for Parent
-  Parent (if pro se)
-  GAL for Parent
-  GAL
-  GAL Attorney

When should court reports be distributed?

- ❏ Local Rules require court reports to be filed and distributed 10 days prior to the scheduled Adjudicatory and Review Hearing (Local Rules 19.c and 21.b).